



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

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March 8, 2017

AVX Corporation
1 AVX Boulevard
Fountain Inn, SC 29644
ATTN: Mr. Evan Slavitt

RE: **NEW BEDFORD**

Release Tracking Number: 4-0000601

Former Aerovox Facility

740 Belleville Avenue

**INTERIM DEADLINE – Revised Phase III
Remedial Action Plan**

Dear Mr. Slavitt:

The Massachusetts Department of Environmental Protection (MassDEP or the Department), Bureau of Waste Site Cleanup is tasked with ensuring the cleanup of oil and hazardous material releases pursuant to the Massachusetts Oil and Hazardous Material Release Prevention Plan (310 CMR 40.0000 et seq. – the MCP). Both M.G.L. c. 21E and the MCP require the performance of response actions to provide for the protection of harm to health, safety, public welfare and the environment which may result from releases and/or threats of releases of oil and/or hazardous material at disposal sites.

Through the MCP, MassDEP is currently regulating an historic release of oil and/or hazardous material (OHM) that has occurred at the former Aerovox property located at 740 Belleville Avenue, New Bedford, Massachusetts (the Property). The term Site, as defined in the Administrative Consent Order (ACO-SE-09-3P-016 or the ACO) executed on June 3, 2010, means any place or area where a release of OHM at or from the property at 740 Belleville Avenue has come to be located, except for any such places or areas that are part of the New Bedford Harbor Superfund Site but inclusive of the sheet-pile wall that was previously installed at the Property. MassDEP has assigned Release Tracking Number (RTN) 4-0000601 to the Site. AVX Corporation (AVX) has been identified as a Potentially Responsible Party (PRP) for the Site and is conducting response actions pursuant to M.G.L., c. 21E, the MCP and the ACO.

The ACO, which was signed by MassDEP, the Massachusetts Attorney General's Office, and you (when used in this letter "you" and "your" refers to AVX), establishes, *inter alia*, deadlines for the completion of Comprehensive Response Actions. Pursuant to Paragraph 14 of the ACO, deadlines for completion of the subsequent Comprehensive Response Actions are dependent on AVX's receipt of MassDEP's written approval of each prior submittal. Paragraphs 14(a) – (c) of the ACO also specify that MassDEP will provide AVX with written notice of MassDEP's approval, conditional approval, deficiency or denial for

each submittal made by AVX pursuant to the ACO. On August 22, 2016, Brown & Caldwell submitted a Phase III Remedial Action Plan (Phase III RAP) to MassDEP on behalf of AVX.

As you are aware, on December 8, 2016 a meeting was held among MassDEP and its contractor (Nobis Engineering); you, your Licensed Site Professional (LSP), your environmental consultant (Brown & Caldwell) and your legal counsel (Nutter McLennan & Fish LLP); the United States Environmental Protection Agency (EPA) and its contractor (Jacobs Engineering); the Army Corps of Engineers; and the City of New Bedford (City) and its environmental consultant (O'Reilly, Talbot & Okun Associates). The purpose of that meeting was to discuss MassDEP's initial review and determination of the Phase III RAP. The meeting agenda, which was provided to the recipients on December 7, 2016, indicated which portions of the Phase III RAP were conditionally approved (Operable units (OU) 1 and 2); the portions that were deficient (OU3A, OU3B, and OU4); and the portion that was denied (OU3B).

On February 7, 2017, MassDEP issued its final Written Determination of the Phase III RAP, which provided detailed information pertaining to the conditional approval, denial and deficiencies initially communicated to AVX in December, 2016. On February 10, 2017, AVX submitted a letter to MassDEP invoking dispute resolution pursuant to Paragraph 22 of the ACO. A meeting to confer regarding the disputed matters was held on February 17, 2017. Participants in that meeting included MassDEP and its contractor (Nobis Engineering); you, your LSP, your environmental consultant (Brown & Caldwell) and your legal counsel (Nutter McLennan & Fish LLP). During the February 17, 2017 meeting, issues relating to the disputed matters and other issues requiring clarification were discussed at length. The meeting concluded with agreement that all issues placed into dispute by AVX were resolved, and that additional discussions would occur within MassDEP to determine a reasonable interim deadline for submittal of a Modified Phase III Remedial Action Plan (Modified Phase III RAP) by AVX.

Accordingly, MassDEP hereby establishes Friday, June 30, 2017 as an enforceable Interim Deadline by which you must submit to MassDEP a Modified Phase III RAP, prepared in full accordance with 310 CMR 40.0000. This date constitutes an enforceable Interim Deadline pursuant to 310 CMR 40.0167. The Modified Phase III RAP must fully incorporate the matters discussed during the February 17, 2017 meeting.

If you have any questions relative to this Notice, please contact Angela Gallagher at the letterhead address or at (508) 946-2790. All future communications regarding this release must reference the following RTN 4-0000601.

Sincerely,



Gerard M.R. Martin
Deputy Regional Director
Bureau of Waste Site Cleanup

M/AG/lg

CERTIFIED MAIL # 7016 0750 0000 1748 9643
RETURN RECEIPT REQUESTED

ec: City of New Bedford
Mayor's Office
Office of Environmental Stewardship
Health Department

Nutter, McLennan, and Fish
Gary Gill-Austern, Esq.

Brown & Caldwell
Marilyn Wade, P.E., LSP

U.S. EPA
David Lederer, Team Leader, New Bedford Harbor Superfund site
David Dickerson, Remedial Project Manager, New Bedford Harbor Superfund site
Cynthia Catri, Esq., New Bedford Harbor Superfund site

DEP-SERO
Millie Garcia-Serrano, SERO Regional Director
Dawn Stolfi Stalenhoef, Chief Regional Counsel

DEP-Boston
Paul Locke, Assistant Commissioner, BWSC
Paul Craffey
Garry Waldeck

Nobis Engineering
David Lang
Jennifer Lambert
Denis McGrath

cc: DEP-SERO
Attn: Regional Enforcement Office